

### REMARKS

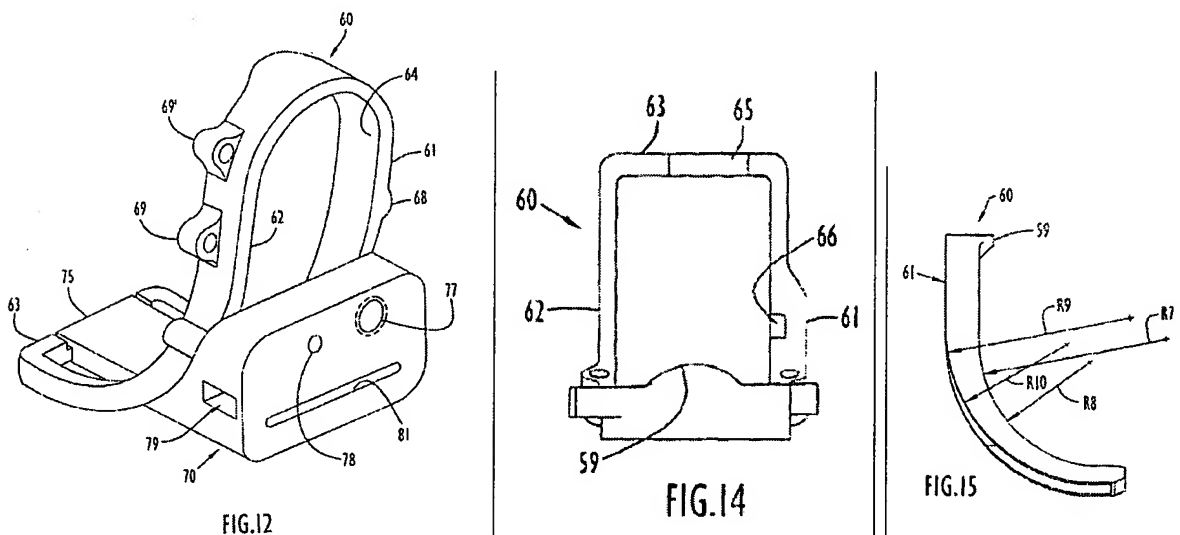
The Applicants wish to thank the Examiner for his examination of the present application and for the Examiner's interview of June 26, 2008 at which time the present remarks were discussed. Claims 48-63, 81-97 and 105-108 have been cancelled, claims 111-136 have been added, and claims 26, 38, 39, 41, 43, 75, 79, 80, 109, 110 have been amended. Claims 26-39, 41-44, 67-80, 98-104 and 109-136 are currently pending. Claim 26 has been amended, in part, to reflect "the surface conforming to and being substantially a negative of the uncut joint surface." For support, see the published application (US 2004/0236424) at, for example, paragraph [295]. Additionally, claim 26 has been amended to reflect "at least one guide in the block and/or the first component." For support, see for example, the published application at Figs. 24A, 24B, 26A and Fig. 26E, and associated text. Additionally, claim 26 has been amended to reflect that the guide has a predetermined position relative to the conforming surface and is fixed at a predetermined orientation from at least one of an anatomical axis and a biomechanical axis associated with said joint. For support, see the published application at, for example, paragraphs [253-254], [267], [291], [297] and [300]. No new matter has been added.

### 35 U.S.C. §102

Claims 26-39, 41-44, 48-58, 60-63 and 67-110 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,141,053 (Rosa et al., hereinafter Rosa). Amended claim 26 is directed to a tool for surgery of a joint that includes, in part, a first component having a surface for engaging a substantially uncut joint surface, the surface conforming to and being substantially a negative of the uncut joint surface.

Rosa discloses a femoral resurfacing guide/posterior resection block assembly that includes a femoral resurfacing guide 60 and a posterior resection block 70 (See Rosa at Fig. 12, Fig. 14 (top view) and Fig. 15 (side view), shown below). When using the block assembly of Rosa, the bottom surface of base plate 74 of the posterior resection block 70 rests on a *resected* surface of the tibia, unlike amended claim 26, which includes a surface for engaging a *substantially uncut joint surface*. Additionally, a stylus 59 of the femoral resurfacing guide 60 of Rosa contacts the bone for proper positioning of the femoral resurfacing guide (see Rosa at col. 24, lines 22-42). However, as can be seen in Figs. 14 and 15 of Rosa, the stylus 59 does not

conform to, and is not substantially a negative of, the uncut joint surface, as is the surface of amended claim 26. Nowhere does Rosa disclose a surface for engaging a substantially uncut joint surface, the surface conforming to and being substantially a negative of the uncut joint surface, as required by amended claim 26.



Since Rosa fails to teach or suggest a surface for engaging a substantially uncut joint surface, the surface conforming to and being substantially a negative of the uncut joint surface, as required by claim 26, as amended, amended claim 26 is allowable over Rosa. Dependent claims 26-39, 41-44, 67-104, 109 and 110 (claims 48-58, 60-63 and 105-108 have been cancelled) are allowable for the same reason as claim 26, and are further allowable in view of the additional limitations set forth therein.

It is believed that the application is in condition for allowance. Consideration of the application and issuance of a notice of allowance are respectfully requested.

It is believed that a three month extension of time is required. Applicants respectfully petition for such an extension. Authorization is hereby given to charge deposit account number 19-4972. If any additional fees are required for the timely consideration of this application, please charge deposit account number 19-4972.

The Applicant requests that the undersigned, Alexander J. Smolenski, Jr., be contacted if it will assist further examination of this application.

Respectfully submitted,

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